

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>May 13, 2010</u>
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PANTHER PARTNERS INC., On Behalf of  
Itself and All Others Similarly Situated,

Plaintiff,

- against -

IKANOS COMMUNICATIONS, INC., et al.,

Defendants.  
-----X

06 Civ. 12967 (PAC)

ORDER

HONORABLE PAUL A. CROTTY, United States District Judge:

Familiarity with this Court's prior orders and decisions in this matter is assumed.

On appeal, the Second Circuit affirmed the decision granting Defendants' motion to dismiss and affirmed the decision denying Plaintiff leave to amend. It vacated the decision denying the motion to reconsider the denial of leave to amend. The Second Circuit remanded the cause "for further proceedings consistent with this order, which may, upon reconsideration, include affording an opportunity to Plaintiff to seek leave to amend the complaint further."

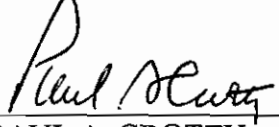
The precise requirements of the Second Circuit remand order are not entirely clear; and the parties, as might be expected, have substantially different views. Defendants rely on the permissive language "may" in the remand, together with the Second Circuit's caution that it intimates "no view on the substance of amendments;" and its expression of no "view" on the consideration of any further motion to amend. Accordingly, Defendants urge that this Court merely reconsider Plaintiff's motion for leave to amend, and upon such reconsideration, deny leave to amend once again.

The Court chooses a course which, in all the circumstances, seems more prudent. The Court will grant Plaintiff an opportunity to file another motion to amend. Granting Plaintiff an opportunity to make a motion to amend neither grants nor denies leave to amend. Further, it is in accord with the Second Circuit's directive to "proceed cautiously in light of the rapidly changing contours of the pleadings standard in order to ensure justice." (Id.)

Accordingly, the Court GRANTS Plaintiff leave to move to amend the pleadings. Any such motion must be made within twenty (20) days of this Order and should be accompanied by a revised proposed second amended complaint. The Clerk of the Court is directed to close out all pending motions in this case.

Dated: New York, New York  
May 13, 2010

SO ORDERED

  
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PAUL A. CROTTY  
United States District Judge